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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,783	07/24/2003	Michael Lebner	0156-2007US01	1197

7590 01/30/2007
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EXAMINER

WEBB, SARAH K

ART UNIT	PAPER NUMBER
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3731

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/626,783

Applicant(s)

LEBNER, MICHAEL

Examiner

Sarah K. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/7/06.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 1-3,5,9-11,16,19-21,23,27-29, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,329,564 to Lebner.

Lebner discloses a wound-closing device that includes two components (5,25) with adhesive backing (column 5, lines 51-52) and means for attaching the components to one another. The components have multiple connectors (15, 35) extending between them. There are removable pulling members (40,45) and extensions for positioning the components (column 6, lines 1-8). The interlock of the connecting strips can function as an alignment indicator. A protective film is provided over the adhesive surfaces (column 6, lines 10-15).

Regarding the limitation "*the average width of the bridging portions being less than the average width of the attached portions*": the connectors of Lebner can be described as having attached and bridging portions. As shown most clearly in Figure 3, Lebner explains that the connectors have cutouts (47,49) that allow drainage of exudates and application of medication (column 6, lines 30-33). The cutouts form two "bridging portions" that have a smaller width than the "attached portions", and the thinner bridging portions span the laceration.

2. Claims 1-3,10,11,17,19-21,28,29, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,263,970 to Preller.

Preller discloses a two-component (12,14) device (10) with adhesive backing (18) and means for attaching the components to one another. The components have

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multiple connectors (24,26) extending between them. The pulling members are reinforced with a pull bar (28), which connects all the pulling elements. A protective film (20) is provided over the adhesive surfaces. Regarding the limitation *"the average width of the bridging portions being less than the average width of the attached portions"*: the connectors of Preller can be described as having attached and bridging portions. As clearly illustrated in Figure 1, each connector comprises a "bridging portion" that has a smaller width than the "attached portion" (tab 28).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 4,6-8,12-15,18,22,24-26,30-33,36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebner in view of US Patent No. 5,979,450 to Baker.

Lebner fails to include a wound edge bar or a code on the components to distinguish the different parts from one another. Baker discloses another medical device with adhesive backing that attaches to skin. Baker teaches that a thin film with adhesive should include a reinforced bar so that wrinkles do not form in the film when applied to skin (column 8, lines 45-49). Wrinkles can allow bacteria to enter the wound, so the reinforced bar helps to keep the wound sterile. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a reinforced bar on the Lebner film, as Baker teaches that this prevents wrinkles and infection of the wound.

Lebner also fails to include a code in the form of indicia or distinguishing colors on the device, but Baker teaches that colors, patterns, or other distinguishing characteristics can be used to differentiate between parts of the device (column 10,

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lines 5-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a code on the Lebner device, as taught by Baker, in order to provide a more user-friendly system that minimizes confusion of parts.

Response to Arguments

4. Applicant's arguments filed 11/7/06 have been fully considered but they are not persuasive. Applicant argues that Lebner does not meet the limitation "*the average width of the bridging portions being less than the average width of the attached portions.*" As shown most clearly in Figure 3, Lebner explains that the connectors have cutouts (47,49) that allow drainage of exudates and application of medication (column 6, lines 30-33). The cutouts form two "bridging portions" that have a smaller width than the "attached portions", and the thinner bridging portions span the laceration.

5. Applicant argues that Preller does not meet the limitation "*the average width of the bridging portions being less than the average width of the attached portions.*" The connectors of the Preller device have bridging portions (24,26) that span the laceration. The attachment means also includes a tab (28) forming a wider "attached portion" of the connectors. The tabs (28) are fixedly attached to the bridging portions (24,26) and are considered to be an integral part of the attachment means. The process by which the tabs (28) are fixed to the bridging portions is irrelevant. The final product includes a connectors with "bridging portions" having a width less than that of the "attached portions."

6. Applicant also argues that Preller does not disclose a two-component system. This argument lacks any basis, because Preller clearly discloses a two-component system similar to the device disclosed by applicant. The device clearly includes a first

component (12) and a second component (14) that are placed on opposite sides of a wound (Figure 3) and then brought together to close the wound (Figures 4 and 5). The argument fails to specifically point out the structural deficiencies of the Preller device.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K. Webb whose telephone number is (571) 272-4706. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SKW

1/23/07




JULIAN W. WOO
PRIMARY EXAMINER